

APPENDIX A

DRAFT CONTRACT

*This Contract ("Contract") is made as of February 17, 2022 by and between _____
Lithified Technologies US LLC ("Contractor") and Region 4 Education Service Center
("Region 4 ESC") for the purchase of _____ Lith-Tec Product _____ ("th
products and services").*

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals Number R_22-09 for 22-09 ("RFP"), to which Contractor provided a response ("Proposal"); and

WHEREAS, Region 4 ESC selected Contractor's Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies") may purchase products and services at prices indicated in the Contract upon the Public Agency's registration with OMNIA Partners.

- 1) Term of agreement. The term of the Contract is for a period of three (3) years unless terminated, canceled or extended as otherwise provided herein. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC's intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days' (365) notice to Region 4 ESC. Notwithstanding the expiration of the initial term or any subsequent term or all renewal options, Region 4 ESC and Contractor may mutually agree to extend the term of this Agreement. Contractor acknowledges and understands Region 4 ESC is under no obligation whatsoever to extend the term of this Agreement.

The anticipated full term of the contract is five (5) years. The Contractor shall have the right to enter local "service" agreements with Participating Public Agencies accessing the contract through OMNIA Partners, so long as the effective date of such agreement is prior to the expiration of the Contract. All local agreements may have a full potential term (any combination of initial and renewal periods) not to exceed five years. Any tasks or project agreements executed against this Master Agreement during the effective term may

CONTRACT

survive beyond the expiration of the Master Agreement as established and agreed to by both parties.

- 2) Scope: Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.
- 3) Form of Contract. The form of Contract shall be the RFP, the Offeror's proposal and Best and Final Offer(s).
- 4) Order of Precedence. In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:
 - i. This Contract
 - ii. Offeror's Best and Final Offer
 - iii. Offeror's proposal
 - iv. RFP and any addenda
- 5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.
- 6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.).
- 8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor.
- 9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.
- 10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.
- 11) TERMINATION OF CONTRACT
 - a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region

4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following:

- i. Providing material that does not meet the specifications of the Contract;
- ii. Providing work or material was not awarded under the Contract;
- iii. Failing to adequately perform the services set forth in the scope of work and specifications;
- iv. Failing to complete required work or furnish required materials within a reasonable amount of time;
- v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
- vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC.

- b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- c) Delivery/Service Failures. Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the Contract to be terminated. In the event Region 4 ESC must purchase in an open market, Contractor agrees to reimburse Region 4 ESC, within a reasonable time period, for all expenses incurred.
- d) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by

acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

- e) Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.
- 12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.
- 13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.
- 14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. Destination and shall be included in all pricing offered unless otherwise clearly stated in writing.
- 15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material.
- 16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.
- 17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

- 18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC.
- 19) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
- 20) New Products/Services. New products and/or services that meet the scope of work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.
- 21) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 22) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.
- 23) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.
- 24) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.
- 25) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a

material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

- 26) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.
- 27) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.
- 28) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.
- 29) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract.
- 30) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas.
- 31) Marketing. Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC.
- 32) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.

33) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.

OFFER AND CONTRACT SIGNATURE FORM

The undersigned hereby offers and, if awarded, agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing.

Company Name . Lithified Technologies US LLC

Address . 218 Camino La Tierra

City/State/Zip . Santa Fe NM 87506

Telephone No. . 505-982-7444

Email Address . bob@lithtec.com

Printed Name . Robert Sherwin

Title . CEO

Authorized signature _____



Accepted by Region 4 ESC:

Contract No. _____

Initial Contract Term _____ to _____

Region 4 ESC Authorized Board Member

Date

Print Name

Region 4 ESC Authorized Board Member

Date

Print Name

Appendix B

TERMS & CONDITIONS ACCEPTANCE FORM

Signature on the Offer and Contract Signature form certifies complete acceptance of the terms and conditions in this solicitation and draft Contract except as noted below with proposed substitute language (additional pages may be attached, if necessary). The provisions of the RFP cannot be modified without the express written approval of Region 4 ESC. If a proposal is returned with modifications to the draft Contract provisions that are not expressly approved in writing by Region 4 ESC, the Contract provisions contained in the RFP shall prevail.

Check one of the following responses:

- Offeror takes no exceptions to the terms and conditions of the RFP and draft Contract.

(Note: If none are listed below, it is understood that no exceptions/deviations are taken.)

X Offeror takes the following exceptions to the RFP and draft Contract. All exceptions must be clearly explained, reference the corresponding term to which Offeror is taking exception and clearly state any proposed modified language, proposed additional terms to the RFP and draft Contract must be included:

(Note: Unacceptable exceptions may remove Offeror's proposal from consideration for award. Region 4 ESC shall be the sole judge on the acceptance of exceptions and modifications and the decision shall be final.)

If an offer is made with modifications to the contract provisions that are not expressly approved in writing, the contract provisions contained in the RFP shall prevail.)

Section/Page	Term, Condition, or Specification	Exception/Proposed Modification	Accepted (For Region 4 ESC's use)
FEMA SPECIAL	Rights 7a.	Confirming that this contract does not	
Conditions		involve the assignment or performance of	
AND		experimental, developmental or	
Appendix II to 2 CFR Part 200	(F)	research work under any "funding agreement"	
III. Instructions to Offerors	#2, a) ii.	Shipping costs shall be determined and quoted at the time of the product order	

2. Offeror's proposal should, at a minimum, include the following for Region 4 ESC's evaluation:

a) Products/Pricing.

- i. Offerors shall provide pricing based on a discount from a price list or catalog, or fixed price, or a co-efficient, or a combination of both with indefinite quantities. Prices listed will be used to establish the extent of an Offeror's product lines, services, warranties, etc. that are available from Offeror and the pricing per item. Multiple percentage discounts are acceptable if, where different percentage discounts apply, they different percentages are specified. Discounts proposed should remain the same for the first 12 months after the contract award. Additional pricing and/or discounts may be included. Products and services proposed are to be priced separately with all ineligible items identified. Offerors may elect to limit their proposals to any category or categories.
- ii. Include an electronic copy of the catalog from which discount, or fixed price, is calculated. Electronic price lists must contain the following: *(if applicable)*
 - Manufacturer or Other Part #
 - Offeror's Part # (if different from the above part #)
 - Description
 - Suggested List Price and Net Price
 - Net price to Region 4 ESC (including freight)

Products/Pricing - LithTec™ Per Square Yard / Per Inch of Treated Depth

Part Number – #LT-3

Description – “LithTec™ at 3% dosage”

Purchase price of LithTec™ includes the following services:

Geotechnical testing during installation: Field observations and logging of installation process. Quality Control and Quality Assurance (QC and QA) testing to ensure that the contractors / installers are achieving the same performance numbers as achieved in the lab includes, testing the depth of treated lift, the moisture content within 1% of Optimum Moisture Content (OMC) at the time of compaction as well as Compaction and Density readings at various cure time intervals measured with lightweight deflectometer. All field testing is logged and documented and available upon request. Purchase price includes 5% overage of LithTec™.

Manufacturer's Suggested Retail Price: \$2.00 per square yard per inch, plus shipping to job site TBD

Net price to Region 4 ESC: \$1.82 per square yard per inch, plus shipping to job site TBD

Part Number – #LT-4

Description – “LithTec™ at 4% a dosage”

Purchase price of LithTec™ includes the following services:

Geotechnical testing during installation: Field observations and logging of installation process. Quality Control and Quality Assurance (QC and QA) testing to ensure that the contractors / installers are achieving the same performance numbers as achieved in the lab includes, testing the depth of treated lift, the moisture content within 1% of Optimum Moisture Content (OMC) at the time of compaction as well as Compaction and Density readings at various cure time intervals measured with lightweight deflectometer. All field testing is logged and documented and available upon request. Purchase price includes 5% overage of LithTec™

Manufacturer's Suggested Retail Price: \$2.66 per square yard per inch, plus shipping to job site TBD

Net price to Region 4 ESC: \$2.42 per square yard per inch, plus shipping to job site TBD

Part Number – #LT-5

Description “LithTec™ at 5% dosage” Purchase price of LithTec™ includes the following services:

Geotechnical testing during installation: Field observations and logging of installation process. Quality Control and Quality Assurance (QC and QA) testing to ensure that the contractors / installers are achieving the same performance numbers as achieved in the lab includes, testing the depth of treated lift, the moisture content within 1% of Optimum Moisture Content (OMC) at the time of compaction as well as Compaction and Density readings at various cure time intervals measured with lightweight deflectometer. All field testing is logged and documented and available upon request. Purchase price includes 5% overage of LithTec™

Manufacturer’s Suggested Retail Price: \$3.33 per square yard per inch, plus shipping to job site TBD
Net price to Region 4 ESC: \$3.01 per square yard per inch, plus shipping to job site TBD

Part Number – #LTA

Description – “Lab Testing Authorization”

Description – “Lab Testing Authorization” Each cross section of testing includes geotechnical sampling, geotechnical testing (which includes plasticity testing, moisture density relationships testing, California Bearing Ratio Testing, Unconfined Compression Testing, Module Derivative Testing) and a Geotechnical Report.

Manufacturer’s Suggested Retail Price: Third party geotechnical labs charge \$12,000 to run the 8 tests. We perform these tests at our cost of \$6,000 for the first 2 cross sections, which will typically cover 3 miles of linear roadway if road base materials are consistent throughout section. Each additional cross section will be tested for \$3,000 each. Plus, mobilization to project site and the cost to ship of road base material to testing lab - TBD

Net price to Region 4 ESC: Testing will be discounted to \$4,800 for the first 2 cross sections, which typically covers 3 miles of linear roadway if materials are consistent throughout. Each additional cross sections will be tested for \$2,400 each, plus mobilization to project site and the cost to ship of road base material to testing lab – TBD

*Minimum order of LithTec™: Product required to treat a minimum of:
50,000 CF @ 6” depth = 11,112 SY. (The equivalent of a road 4167’ L x 24’ W)

Media submitted for price list must include the Offerors’ company name, name of the solicitation, and date on a Flash Drive (i.e., Pin or Jump Drives).

- iii. When a UPB is to be utilized, Offeror should include a state co-efficient for each state serviced to include both standard and non-standard hours. **N/A**
- iv. When hourly labor rates are to be utilized, Offeror should indicate the primary jobtitles with not to exceed hourly rates with any applicable discounts. **N/A**
- v. Is pricing available for all products and services?
Yes, pricing is available for all products. The LithTec™ formulations are customized for each project, which may be treated at various depths. As new products become available, they will be announced with pricing for inclusion.
- vi. Describe any shipping charges.
Shipping cost to the project shall be determined and quoted at the time of the product order. The LithTec™ product is a dry powdered formulation that can be shipped in 3300

lb. Supersacks, 4,000 lb. Supersacks or in 21-ton pneumatic tankers.

vii. Provide pricing for warranties on all products and services.

There is no additional cost for the warranty as it is included in the purchase price.
See Attached Product Warranty and Specifications

viii. Describe any return and restocking fees.

Since the product is customized for each project based upon the sampled materials tested, there are no returns permitted and consequently no restocking fees.

ix. Describe any additional discounts or rebates available. Additional discounts or rebates may be offered for large quantity orders, single ship to location, growth, annual spend, guaranteed quantity, etc.

Lithified Technologies offers a volume discount based on Total Annual Square Yards Purchased in a calendar year:

- 50,000 Square Yards – 5% discount off Region 4 ESC Net Price
- 100,000 Square Yards – 10% discount off Region 4 ESC Net Price
- 150,000 Square Yards – 15% discount off Region 4 ESC Net Price
- 200,000 Square Yards – 20% discount off Region 4 ESC Net Price

- x. Describe how customers verify they are receiving Contract pricing.
Lithified Technology's MSRP catalog sheet is available for all customers to ensure they are receiving contract pricing.
- xi. Describe payment methods offered.
Electronic ACH, Wire Transfer or check.
- xii. Propose the frequency of updates to the Offeror's pricing structure. Describe any proposed indices to guide price adjustments. If offering a catalog contract with discounts by category, while changes in individual pricing may change, the category discounts should not change over the term of the Contract.
After the initial 12 months, annual price adjustments may occur should there are increases in the raw materials, effective the beginning of each calendar year.
- xiii. Describe how future product introductions will be priced and align with Contract pricing proposed.
Future product introductions will be priced consistently with the current contract pricing methodology and entitle Region 4 customers to receive the same discounts.
- xiv. Provide any additional information relevant to this section.
N/A

Federal Funding Pricing

Due to products and services potentially being used in response to an emergency or disaster recovery situation in which federal funding may use, provide alternative pricing that does not include cost plus a percentage of cost or pricing based on time and materials; if time and materials is necessary, a ceiling price that the contractor exceeds at its own risk will be needed as determined and set by the Participating Public Agency. Products and services provided in a situation where an agency is eligible for federal funding, Offeror is subject to and must comply with all federal requirements applicable to the funding including, but not limited to the FEMA Special Conditions section located in the Federal Funds Certifications Exhibit.

Lithified Technologies shall provide an additional discount if our materials are used in response to an emergency or disaster recovery situation.

Not to Exceed Pricing. Region 4 ESC requests pricing be submitted as not to exceed pricing. Unlike fixed pricing, the Contractor can adjust submitted pricing lower if needed but, cannot exceed original pricing submitted. Contractor must allow for lower pricing to be available for similar product and service purchases. Cost plus pricing as a primary pricing structure is not acceptable.

b) Performance Capability

- i. Include a detailed response to Appendix D, Exhibit A, OMNIA Partners Response for National Cooperative Contract. Responses should highlight experience, demonstrate a strong national or regional presence, describe how Offeror will educate its sales force about the Contract, describe how products and services will be distributed, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and reported to OMNIA Partners.
- ii. The successful Offeror will be required to sign Appendix D, Exhibit B, OMNIA Partners Administration Agreement prior to Contract award. Offerors should have any reviews required to sign the document prior to submitting a response. Offeror's response should include any proposed exceptions to OMNIA Partners Administration Agreement on Appendix B, Terms and Conditions Acceptance Form.
- iii. Include completed Appendix D, Exhibits F. Federal Funds Certifications and G. New Jersey Business Compliance.
At this time, we will not be doing business in New Jersey.
- iv. Describe how Offeror responds to emergency orders.
Should a state of emergency arise and we are asked to respond, we will work diligently to respond in an expedient manner
- v. What is Offeror's average Fill Rate?
Lithified Technologies customizes the formulation for every project and therefore does not inventory a generic product. In addition, we have multiple on-demand blending partners across the country that fulfill and ship all orders to meet the installation and road construction schedules.
- vi. What is Offeror's average on time delivery rate? Describe Offeror's history of meeting the shipping and delivery timelines.
We have consistently met our product delivery timelines in coordination with the road construction and installation schedules. We are prepared to meet demands for growth by expanding our geotechnical laboratory and staff and increasing the number of national blending facilities as required.
- vii. Describe Offeror's return and restocking policy.
Since the product is customized for each project based upon the sampled materials tested, there are no returns permitted and consequently no restocking fees.
- viii. Describe Offeror's ability to meet service and warranty needs.
Lithified Technologies is a product supplier with full geotechnical support. We warrant and guarantee the product replacement should a failure occur subsequent to the product being installed in accordance with the product installation specification. See attached warranty.

- ix. Describe Offeror's customer service/problem resolution process. Include hours of operation, number of services, etc.

Lithified Technologies customer service includes: A battery of 8 geotechnical tests in compliance with ASTM and AASHTO standards prior to the installation of the LithTec™ product to predetermine that the product is able to achieve high performance specifications in excess of industry standards for each project. Once the test results have confirmed that the results exceed the specifications, the product's effectiveness has been confirmed. When the road contractors and installers follow the manufacturer's installation specifications, they will achieve the same performance numbers as were achieved in the laboratory. To help ensure that this is accomplished, Lithified Technologies will send one of their field geotechnicians to every project to perform field testing during the installation process, to ensure that the contractor is achieving the predetermined optimum moisture content, densities, stiffness, equal to or greater than 95% compaction readings etc. to match the laboratory test results.

In addition, the onsite geotechs observe and document the installation process and notify the customer and contractor of any installation processes that may be out of compliance with the installation specifications and will communicate with the customer and contractor to bring resolution to the situation. Ultimately it is the customer's responsibility to stop the project, should the contractor be unwilling or unable to follow the installation specifications.

Other Lithified Technology services include a Project Business Manager that coordinates the installation with the contractor, blending facilities, shipping company to ensure that the LithTec™ product is on site and ready to meet the installation schedule and that a location has been established for the staging of the product with the contractor. The Lithified Technologies Project Business Manager will facilitate a preconstruction meeting with the contractor to ensure that the contractors have copies of the installation specification, the Required Equipment List and any other pertinent documents and will schedule the construction and installation with all parties.

Hours of Operation: 9-5 M-F

- x. Describe Offeror's invoicing process. Include payment terms and acceptable methods of payments. Offerors shall describe any associated fees pertaining to credit cards/p-cards.

Invoices will be submitted to the customer at the time of order and a 50% down payment is required at the time of order. The 50% down payment must be received before materials will be produced for the customer's project. Final payment is due upon the completion of the installation. We accept ACH, Wire Transfer or check. In the rare case where a credit card would be accepted, a convenience fee of 4% is added.

- xi. Describe Offeror's contract implementation/customer transition plan.
- Step 1 of the contract process starts with a Customer Information Road History form (CIRH), which provides the contact information and any notable details about the road project, such as water crossings or previous problems areas in the road etc.
- Step 2. Customer signs a Laboratory Testing Authorization (LTA) form that authorizes the geotechs to pull soil and material samples from the road project in various cross sections that will be delivered to the lab for geotechnical testing.
- Step 3. Upon the completion of the testing a review of the geotechnical report is scheduled with the customer to go over the test results and dosage requirements necessary to achieve the performance specifications.
- Step 4. Should customer decide to move forward with the project, the customer signs which is called an On-Demand Product Request (ODPR) which, is the contract that authorizes Lithified Technologies to order the custom product, which will be delivered to the road project staging area in a timely manner to meet the road construction and installation schedule.
- Step 5. Customer wires an initial 50% deposit on the product purchase, (unless otherwise agreed to in writing by Lithified Technologies.)
- Step 6. Upon completion of the project, the customer shall wire the balance of the product purchase price including the shipping cost and sales tax if applicable.
- xii. Describe the financial condition of Offeror.
- Lithified Technologies US, LLC (LT-US) is debt free with total assets in excess of \$4 million dollars and LLC Member's equity in excess of \$900,000.
- xiii. Provide a website link in order to review website ease of use, availability, and capabilities related to ordering, returns and reporting. Describe the website's capabilities and functionality.
- www.LithTec.com is an informative site that allows users to view and download White Papers and other technical documents, laboratory testing protocols, installation specifications, required equipment lists for the contractors, a failure prevention guide, surface adhesion guide, Los Alamos National Laboratory White Papers, LithTec™ Value Engineering savings, customer testimonials, news stories and articles on LT-US, project videos, case studies, Power Point Presentations, Webinars and our latest story featured on CNBC on the Advancements TV Series hosted by Ted Danson, which featured two of the Company's infrastructure technologies involving our LithTec-4Roads and LithTec U-Capping System, used to cap Abandoned Uranium Mines (AUMs).
- xiv. Describe the Offeror's safety record.
- The LithTec™ product was commercialized in early 2018. We have performed numerous projects during since that time with no accidents and a perfect safety record.

- xv. Provide any additional information relevant to this section.

LithTec™ is not a “soil stabilizer”, which simply tries to “stabilize the soil” by making it sticky with lignin or enzymes, or attempts to glue the soil together with a polymers. Instead, LithTec™ is transforming the soil into stone at the molecular level through a process called Lithification. Soil Stabilizers do not have a good reputation due to their high failure rate. There are literally thousands of different soil types that exist that range from an acidic pH to a high alkaline pH and consequently any company that offers one product is destined to fail. Lithified Technologies has raised the bar tremendously with its Accelerated Lithification Technology. We know of no other product that exist worldwide that offers this technology nor that customizes their formulation for every single project with the extensive Geo-Technical Testing that supports every project.

See attached document comparing LithTec™ to Soil Stabilizers

“Differences between Stabilizers+Lithification.pdf”

FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

“Contract” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the “Master Agreement”.

“Contractor” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as “Supplier” or “Awarded Supplier”.

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended, as described in and subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension), must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

Version October 19, 2021

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. REMEDIES

- a. Standard. Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. EQUAL EMPLOYMENT OPPORTUNITY

When applicable:

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R.

§ 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).

b. Key Definitions.

- i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
 - ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT

- a. Standard. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. Applicability. The Davis-Bacon Act applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program.
- c. Requirements. If applicable, the non-federal entity must do the following:
 - i. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
 - ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person

employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").
- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

- a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12."

6. CONTRACT WORK HOURS AND SAFETY STANDARDSACT

- a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. Applicability. This requirement applies to all FEMA contracts awarded by the non- federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation

of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of

\$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The Federal agency or loan/grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

- a. Standard. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).
- b. Applicability. This requirement applies to “funding agreements,” but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- c. Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. Standard. If applicable, contracts must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b. Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c. Suggested Language. The following provides a sample contract clause.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. DEBARMENT AND SUSPENSION

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and*

Suspension (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).

- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- c. Requirements.
 - i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.
 - ii. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any non-procurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipients.
 - iii. Specifically, a covered transaction includes the following contracts for goods or services:
 - 1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - 2. The contract requires the approval of FEMA, regardless of amount.
 - 3. The contract is for federally-required audit services.
 - 4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. Suggested Language. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2

C.F.R. § 180.935).

- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Participating Public Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Participating Public Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

- a. Standard. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Federal awarding agency.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.
- c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. §200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non-federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. Suggested Language.
 - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
 - ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

12. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.

Access to Records. The following access to records requirements apply to this contract:

- i. The Contractor agrees to provide Participating Public Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the Participating Public Agency and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

13. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

14. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

15. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

16. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- c. "The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.


Offeror's Name: Lithified Technologies US LLC

Address, City, State, and Zip Code:
218 Camino La Tierra Santa Fe NM 87506

Phone Number: 505-982-7444 Fax Number: _____

Printed Name and Title of Authorized Representative:
Robert Sherwin

Email Address: Bob@lithtec.com

Signature of Authorized Representative: 

Date: 02/17/2022

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: Lithified Technologies US LLC

Organization Address: 218 Camino La Tierra Santa Fe NM 87506

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- F Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)
- Other (be specific): _____

Part II

- The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**
- OR
- No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address
Mario Mito	828 Camino Del Poniente Santa Fe NM 87505
Bionic IP Holdings LLC	218 Camino La Tierra Santa Fe NM 87506

Robert Sherwin

Exhibit F
Federal Funds Certifications

FEDERAL CERTIFICATIONS
ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Version October 19, 2021

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Per FAR 52.204-24 and FAR 52.204-25, solicitations and resultant contracts shall contain the following provisions.

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

(a) *Definitions.* As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It will, will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It does, does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer.

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements;
- or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES RS Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals

becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

(l) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (l) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES RS Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES RS Initials of Authorized Representative of offeror

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name:
Lithified Technologies US LLC

Address, City, State, and Zip Code:
218 Camino La Tierra Santa Fe NM 87506

Phone Number: 505-982-7444 Fax Number:

Printed Name and Title of Authorized Representative:
Robert Sherwin CEO

Email Address:
Bob@lithtec.com

Signature of Authorized Representative: Robert Sherwin Date: 02/17/2022

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

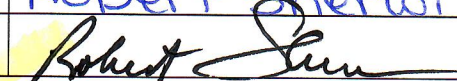
Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **<name of contracting unit>** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **<type of contracting unit>** to notify the **<type of contracting unit>** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **<type of contracting unit>** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):	Robert Sherwin	Title:	CEO
Signature:		Date:	2-17-2022

DOC #3

AFFIRMATIVE ACTION AFFIDAVIT
(P.L. 1975, C.127)

Company Name: Lithified Technologies US LLC

Street: 218 Camino La Tierra

City, State, Zip Code: Santa Fe NM 87506

Proposal Certification:

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

Required Affirmative Action Evidence:

Procurement, Professional & Service Contracts (Exhibit A)

Vendors must submit with proposal:

1. A photo copy of their Federal Letter of Affirmative Action Plan Approval

OR

2. A photo copy of their Certificate of Employee Information Report

OR

3. A complete Affirmative Action Employee Information Report (AA302) _____

Public Work – Over \$50,000 Total Project Cost:

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201-A upon receipt from the

B. Approved Federal or New Jersey Plan – certificate enclosed

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

2-17-2022

Date

Robert Shewin, CEO
Authorized Signature and Title

P.L. 1995, c. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE
CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

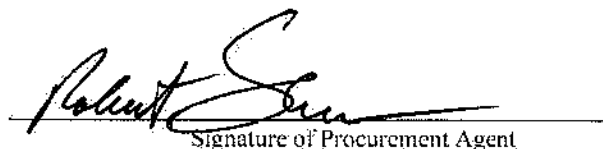
The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).


Signature of Procurement Agent

STOCKHOLDER DISCLOSURE CERTIFICATION

Name of Business: Lithified Technologies US LLC

I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

Partnership

Corporation

Sole Proprietorship

Limited Partnership

Limited Liability Corporation

Limited Liability Partnership

Subchapter S Corporation

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name: Mario Mito	Name:
Home Address: 828 Camino Del Poniente Santa Fe NM 87505	Home Address:
Name: Bionic IP Holdings LLC	Name:
Home Address: 218 Camino La Tierra Santa Fe NM 87506	Home Address:
Name:	Name:
Home Address:	Home Address:

Subscribed and sworn before me this ___ day of _____, 2_.	_____ (Affiant)
(Notary Public)	_____ (Print name & title of affiant)
My Commission expires:	_____ (Corporate Seal)



Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0038

Notice	CP207
Tax period	March 31, 2019
Notice date	July 1, 2019
Employer ID number	46-5764419
Page 3 of 3	

INTERNAL REVENUE SERVICE
OGDEN, UT 84201-0038



000955

Fold here

Response form

Complete this form and send it to us with your Schedule B for Form number (941) in the enclosed envelope so we receive it by August 15, 2019. Be sure our address shows through the window.

Provide your contact information

If your address has changed, please call 800-829-0115 or visit www.irs.gov.

LITHIFIED TECHNOLOGIES US LLC
ROBERT SHERWIN MBR
218 CAMINO LA TIERRA
SANTA FE NM 87506-8559

Primary Phone	Best time to call	Secondary Phone	Best time to call
	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

1. Indicate your agreement

Under penalties of perjury, to the best of my knowledge, the information in the enclosed Schedule B (Form number (941)) and any supporting documentation is correct and complete. I understand that it is a permanent part of my record and will be used to adjust my return.

Signature _____ Date _____
Title _____

2. Send this Response form to us

Mail your Response form to us along with your Schedule B as soon as possible. If you're using your own envelope, mail your package to the address on this form.



02/17/2022

Sonnia Cassidy,

The following is the Dun & Bradstreet D-U-N-S® number for **Lithified Technologies Us, LLC:**

D-U-N-S number: **081269634**

If this is **YOUR COMPANY**, take advantage of [CreditBuilder™](#), our next generation credit building solution.

With [CreditBuilder](#) you can:

- Get unlimited access to your business credit file
- Ensure you are always aware of the most current D&B information your banks, suppliers, competitors and customers are using to evaluate your business
- Get alerts when there are changes to your business credit file
- Benchmark your company's credit scores against your industry and key competitors
- Enhance your D&B credit scores and ratings by adding good payment history to your credit profile

If you are looking for information on **ANOTHER COMPANY**, consider purchasing a [Business Information Report™](#). Reduce the risk of unpaid bills by evaluating the credit risk of another company before doing business with them.

With a [Business Information Report](#) you can:

- Get a detailed snapshot of another company's credit report; available online for 6 months from initial access
- See a company's PAYDEX® score and other D&B® ratings
- Access a company's payment history
- View company history and background information on key employees

Call **1-800-700-2733**, Monday through Friday, 8:00 AM to 6:00 PM local time or contact us at [Dun & Bradstreet support](#).

Sincerely,

Dun & Bradstreet

Please add dandb@click.dandb.com to your email address book to ensure delivery of our emails to your inbox.

This is a notification regarding your product subscription with Dun & Bradstreet. If you have any questions, please contact [Dun & Bradstreet support](#).

Privacy and Terms of Service Notice: Your privacy is important to us; please see our [Privacy Policy](#) and [Terms of Service](#).

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1250 Valley Brook Avenue, Suite 102 Lyndhurst, NJ 07071

Update your information with D-U-N-S® Manager

Report as of: 02-17-2022

Lithified Technologies Us, LLC

ACTIVE SINGLE LOCATION

Address: 218 Camino Rio, Santa Fe, NM, 87501, United States

SCORES AND RATINGS

PAYDEX® Score

IMPROVED

SINCE 2021-12-04

Delinquency Predictor Percentile

IMPROVED

SINCE 2022-01-17

Financial Stress Percentile

DECLINED

SINCE 2021-11-27

Supplier Evaluation Risk Rating

IMPROVED

SINCE 2021-11-27

Monitor in Real-time
to Gain Valuable Insights into Your Business Credit

Get alerts when changes occur and track your credit score in the information on your Dun & Bradstreet business credit file.

STATUS ADD TO CART

Call Us @ 1-800-527-7777 for more information or help for you.

Monitor & Take Action
to Help Build Your Business Credit File

Proactively build your credit file by submitting trade references, subject to verification and acceptance, to Dun & Bradstreet and get alerts when changes are made to your file.

STATUS ADD TO CART

Call Us @ 1-800-527-7777 for more information or help for you.

Affiliate offer

Manage your business with ClientBook from 1-800-Account. Your first two months are free.

Start for Free

Dun & Bradstreet offer

Transform your information into a more powerful sales tool.

D&B Em

Sign up to receive free contacts even before you call.

COMPANY PROFILE

D-U-N-S

08-126-9634

Business Form

Limited Liability Company

State of Incorporation

NM

Ownership

Not publicly traded

Mailing Address

United States

Telephone

(505) 982-7444

Website

www.lithifiedtechus.com

Annual Sales

US\$ 2,367,719

Employees

12

Age (Year Started)

5 (2017)

Named Principal

Robert Sherwin, Member

Line of Business

Whol brick/stone material

LEGAL EVENTS

Events	Open Count	Last Filed
Bankruptcies	0	-
Judgments	0	-
Liens	0	-
Suits	0	-
UCC	0	-

TRADE PAYMENTS

Highest Past Due	Highest Now Owing	Total Trade Experiences
US\$ 0	US\$ 7,500	7
	Largest High Credit	Average High Credit
	US\$ 7,500	US\$ 2,700

OWNERSHIP

This company is a Single Location.

Total Members in Family Tree - 0

Subsidiaries

Branches

FINANCIAL OVERVIEW

Source:

INQUIRIES

12 Month Summary

Total number of Inquiries

21

Unique Customers

15

*Trade References will be added subject to Dun & Bradstreet verification and acceptance. Dun & Bradstreet cannot guarantee that trade references will be accepted or that accepted trade references will impact your business credit file. Please see <https://www.dunandbradstreet.com/learn/trade-references-for-creditors> for details, process and other information regarding Trade

Hi there, thanks for stopping by Dun & Bradstreet! Can I point you in the right direction?

Exhibit B
Administration Agreement, Example

ADMINISTRATION AGREEMENT

THIS ADMINISTRATION AGREEMENT (this "**Agreement**") is made this 17 day of February 2022 between National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector ("**OMNIA Partners**"), and Lithified Technologies US LLC ("**Supplier**").

RECITALS

WHEREAS, the Region 4 ESC (the "**Principal Procurement Agency**") has entered into a Master Agreement effective 02/17/2022, Agreement No 22-09, by and between the Principal Procurement Agency and Supplier, (as may be amended from time to time in accordance with the terms thereof, the "**Master Agreement**"), as attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, for the purchase of Lith-Tec (the "**Product**");

WHEREAS, said Master Agreement provides that any or all public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit (collectively, "**Public Agencies**"), that register (either via registration on the OMNIA Partners website or execution of a Master Intergovernmental Cooperative Purchasing Agreement, attached hereto as Exhibit B) (each, hereinafter referred to as a "**Participating Public Agency**") may purchase Product at prices stated in the Master Agreement;

WHEREAS, Participating Public Agencies may access the Master Agreement which is offered through OMNIA Partners to Public Agencies;

WHEREAS, OMNIA Partners serves as the cooperative contract administrator of the Master Agreement on behalf of Principal Procurement Agency;

WHEREAS, Principal Procurement Agency desires OMNIA Partners to proceed with administration of the Master Agreement; and

WHEREAS, OMNIA Partners and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies and to set forth certain terms and conditions governing the relationship between OMNIA Partners and Supplier.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, OMNIA Partners and Supplier hereby agree as follows:

DEFINITIONS

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings given to them in the Master Agreement.

TERMS AND CONDITIONS

2. The Master Agreement and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement. Supplier acknowledges and agrees that the covenants and agreements of Supplier set forth in the solicitation and Supplier's response thereto resulting in the Master Agreement are incorporated herein and are an integral part hereof.

3. OMNIA Partners shall be afforded all of the rights, privileges and indemnifications afforded to Principal Procurement Agency by or from Supplier under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to OMNIA Partners, its agents, employees, directors, and representatives under this Agreement including, but not limited to, Supplier's obligation to obtain appropriate insurance.

4. OMNIA Partners shall perform all of its duties, responsibilities and obligations as the cooperative contract administrator of the Master Agreement on behalf of Principal Procurement Agency as set forth herein, and Supplier hereby acknowledges and agrees that all duties, responsibilities and obligations will be undertaken by OMNIA Partners solely in its capacity as the cooperative contract administrator under the Master Agreement.

5. With respect to any purchases by Principal Procurement Agency or any Participating Public Agency pursuant to the Master Agreement, OMNIA Partners shall not be: (i) construed as a dealer, re-marketer, representative, partner or agent of any type of the Supplier, Principal Procurement Agency or any Participating Public Agency; (ii) obligated, liable or responsible for any order for Product made by Principal Procurement Agency or any Participating Public Agency or any employee thereof under the Master Agreement or for any payment required to be made with respect to such order for Product; and (iii) obligated, liable or responsible for any failure by Principal Procurement Agency or any Participating Public Agency to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase under the Master Agreement. OMNIA Partners makes no representation or guaranty with respect to any minimum purchases by Principal Procurement Agency or any Participating Public Agency or any employee thereof under this Agreement or the Master Agreement.

6. OMNIA Partners shall not be responsible for Supplier's performance under the Master Agreement, and Supplier shall hold OMNIA Partners harmless from any liability that may arise from the acts or omissions of Supplier in connection with the Master Agreement.

7. Supplier acknowledges that, in connection with its access to OMNIA Partners confidential information and/or supply of data to OMNIA Partners, it has complied with and shall continue to comply with all laws, regulations and standards that may apply to Supplier, including, without limitation: (a) United States federal and state information security and privacy statutes, regulations and/or best practices, including, without limitation, the Gramm-Leach-Bliley Act, the Massachusetts Data Security Regulations (201 C.M.R. 17.00 et. seq.), the Nevada encryption statute (N.R.S. § 603A), the California data security law (Cal. Civil Code § 1798.80 et. seq.) and California Consumer Privacy Act (Cal. Civil Code § 1798.100 et. seq.); and (b) applicable industry and regulatory standards and best practices (collectively, "**Data Regulations**").

With regard to Personal Information that Supplier collects, receives, or otherwise processes under the Agreement or otherwise in connection with performance of the Agreement, Supplier agrees that it will not: (i) sell, rent, release, disclose, disseminate, make available, transfer, or otherwise

communicate orally, in writing, or by electronic or other means, such Personal Information to another business or third party for monetary or other valuable consideration; or (ii) retain, use, or disclose such Personal Information outside of the direct business relationship between Supplier and OMNIA Partners or for any purpose other than for the specific purpose of performance of the Agreement, including retaining, using, or disclosing such Personal Information for a commercial purpose other than for performance of the Agreement. By entering into the Agreement, Supplier certifies that it understands the specific restrictions contained in this Section 7 and will comply with them. For purposes hereof, “**Personal Information**” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household, and includes the specific elements of “personal information” as defined under Data Regulations, as defined herein. Supplier will reasonably assist OMNIA Partners in timely responding to any third party “request to know” or “request to delete” (as defined pursuant to Data Regulations) and will promptly provide OMNIA Partners with information reasonably necessary for OMNIA Partners to respond to such requests. Where Supplier collects Personal Information directly from Public Agencies or others on OMNIA Partners’ behalf, Supplier will maintain records and the means necessary to enable OMNIA Partners to respond to such requests to know and requests to delete.

8. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OMNIA PARTNERS EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING OMNIA PARTNERS’ PERFORMANCE AS A CONTRACT ADMINISTRATOR OF THE MASTER AGREEMENT. OMNIA PARTNERS SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF OMNIA PARTNERS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TERM OF AGREEMENT; TERMINATION

9. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of Sections 3 – 8 and 11 – 22, hereof and the indemnifications afforded by the Supplier to OMNIA Partners in the Master Agreement, to the extent such provisions survive any expiration or termination of the Master Agreement, shall survive the expiration or termination of this Agreement.

NATIONAL PROMOTION

10. OMNIA Partners and Supplier shall publicize and promote the availability of the Master Agreement’s products and services to Public Agencies and such agencies’ employees. Supplier shall require each Public Agency to register its participation in the OMNIA Partners program by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector) or executing a Master Intergovernmental Cooperative Purchasing Agreement prior to processing the Participating Public Agency’s first sales order. Upon request, Supplier shall make available to interested Public Agencies a copy of the Master Agreement and such price lists or quotes as may be necessary for such Public Agencies to evaluate potential purchases.

11. Supplier shall provide such marketing and administrative support as set forth in the solicitation resulting in the Master Agreement, including assisting in development of marketing materials as reasonably requested by Principal Procurement Agency and OMNIA Partners. Supplier shall be responsible for obtaining permission or license of use and payment of any license fees for all content and images Supplier provides to OMNIA Partners or posts on the OMNIA Partners website.

Supplier shall indemnify, defend and hold harmless OMNIA Partners for use of all such content and images including copyright infringement claims. Supplier and OMNIA Partners each hereby grant to the other party a limited, revocable, non-transferable, non-sublicensable right to use such party's logo (each, the "**Logo**") solely for use in marketing the Master Agreement. Each party shall provide the other party with the standard terms of use of such party's Logo, and such party shall comply with such terms in all material respects. Both parties shall obtain approval from the other party prior to use of such party's Logo. Notwithstanding the foregoing, the parties understand and agree that except as provided herein neither party shall have any right, title or interest in the other party's Logo. Upon termination of this Agreement, each party shall immediately cease use of the other party's Logo.

ADMINISTRATIVE FEE, REPORTING & PAYMENT

12. An "Administrative Fee" shall be defined and due to OMNIA Partners from Supplier in the amount of **three percent (3%)** ("**Administrative Fee Percentage**") multiplied by the total purchase amount paid to Supplier, less refunds, credits on returns, rebates and discounts, for the sale of products and/or services to Principal Procurement Agency and Participating Public Agencies pursuant to the Master Agreement (as amended from time to time and including any renewal thereof) ("**Contract Sales**"). From time to time the parties may mutually agree in writing to a lower Administrative Fee Percentage for a specifically identified Participating Public Agency's Contract Sales.

13. Supplier shall provide OMNIA Partners with an electronic accounting report monthly, in the format prescribed by OMNIA Partners, summarizing all Contract Sales for each calendar month. The Contract Sales reporting format is provided as Exhibit C ("**Contract Sales Report**"), attached hereto and incorporated herein by reference. Contract Sales Reports for each calendar month shall be provided by Supplier to OMNIA Partners by the 10th day of the following month. Failure to provide a Contract Sales Report within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion.

14. Administrative Fee payments are to be paid by Supplier to OMNIA Partners at the frequency and on the due date stated in Section 13, above, for Supplier's submission of corresponding Contract Sales Reports. Administrative Fee payments are to be made via Automated Clearing House (ACH) to the OMNIA Partners designated financial institution identified in Exhibit D. Failure to provide a payment of the Administrative Fee within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion. All Administrative Fees not paid when due shall bear interest at a rate equal to the lesser of one and one-half percent (1 1/2%) per month or the maximum rate permitted by law until paid in full.

15. Supplier shall maintain an accounting of all purchases made by Participating Public Agencies under the Master Agreement. OMNIA Partners, or its designee, in OMNIA Partners' sole discretion, reserves the right to compare Participating Public Agency records with Contract Sales Reports submitted by Supplier for a period of four (4) years from the date OMNIA Partners receives such report. In addition, OMNIA Partners may engage a third party to conduct an independent audit of Supplier's monthly reports. In the event of such an audit, Supplier shall provide all materials reasonably requested relating to such audit by OMNIA Partners at the location designated by OMNIA Partners. In the event an underreporting of Contract Sales and a resulting underpayment of

Administrative Fees is revealed, OMNIA Partners will notify the Supplier in writing. Supplier will have thirty (30) days from the date of such notice to resolve the discrepancy to OMNIA Partners' reasonable satisfaction, including payment of any Administrative Fees due and owing, together with interest thereon in accordance with Section 13, and reimbursement of OMNIA Partners' costs and expenses related to such audit.

GENERAL PROVISIONS

16. This Agreement, the Master Agreement and the exhibits referenced herein supersede any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereto and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained or incorporated herein shall be valid or binding. In the event of any conflict between the provisions of this Agreement and the Master Agreement, as between OMNIA Partners and Supplier, the provisions of this Agreement shall prevail.

17. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any Administrative Fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which it may be entitled.

18. This Agreement and OMNIA Partners' rights and obligations hereunder may be assigned at OMNIA Partners' sole discretion to an affiliate of OMNIA Partners, any purchaser of any or all or substantially all of the assets of OMNIA Partners, or the successor entity as a result of a merger, reorganization, consolidation, conversion or change of control, whether by operation of law or otherwise. Supplier may not assign its obligations hereunder without the prior written consent of OMNIA Partners.

19. All written communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery on receipt to the addresses as set forth below.

A. OMNIA Partners:

OMNIA Partners
Attn: President
840 Crescent Centre Drive
Suite 600
Franklin, TN 37067

B. Supplier: Lithified Technologies US LLC

Lith Tec
215 Camino La Tierra
Santa Fe NM 87506

20. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever, and this Agreement will be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

21. This Agreement may not be amended, changed, modified, or altered without the prior written consent of the parties hereto, and no provision of this Agreement may be discharged or waived, except by a writing signed by the parties. A waiver of any particular provision will not be deemed a waiver of any other provision, nor will a waiver given on one occasion be deemed to apply to any other occasion.

22. This Agreement shall inure to the benefit of and shall be binding upon OMNIA Partners, the Supplier and any respective successor and assign thereto; subject, however, to the limitations contained herein.

23. This Agreement will be construed under and governed by the laws of the State of Delaware, excluding its conflicts of law provisions and any action arising out of or related to this Agreement shall be commenced solely and exclusively in the state or federal courts in Williamson County Tennessee.

24. This Agreement may be executed in counterparts, each of which is an original but all of which, together, shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile, or by .pdf or similar electronic transmission, will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile, or by .pdf or similar electronic transmission, will be deemed to be their original signatures for any purpose whatsoever.

[INSERT SUPPLIER ENTITY NAME]

Lithified Technologies US LLC
218 Camino La Tierra
Santa Fe NM 87506

Signature
Robert Sherwin

Name

CEO

Title
02/17/2022

Date

**NATIONAL
INTERGOVERNMENTAL
PURCHASING ALLIANCE
COMPANY, A DELAWARE
CORPORATION D/B/A OMNIA
PARTNERS, PUBLIC SECTOR**

Signature
Sarah Vavra

Name
Sr. Vice President, Public Sector
Contracting

Title

Date

3.0 SUPPLIER RESPONSE

3.1

Supplier must supply the following information for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners.

3.2 Company

- A. Brief history and description of Supplier to include experience providing similar products and services.

Lithified Technologies US, LLC (LT-US) was formed on 7-1-2014. Corporate office and Geotechnical laboratory are located at: 218 Camino la Tierra, Santa Fe, NM 87506

- B. Total number and location of salespersons employed by Supplier.

We employ 5 in-house salespersons, and have independent sales contracts with over 100 outside Business Development Representatives (BDR's) and contract with licensees and their sales teams that also sell our product nationwide. We have a sales presence across the United States.

- C. Number and location of support centers (if applicable) and location of corporate office.

Our corporate office and geotechnical lab are located at 218 Camino La Tierra, Santa Fe, NM 87506.

- D. Annual sales for the three previous fiscal years.

• 2019 \$1,109,829

• 2020 \$1,820,258

• 2021 \$1,938,089

a. Dunn & Bradstreet 08-126-9634 – Lithified Technologies US, LLC

b. FEIN 46-5764419

- E. Describe any green or environmental initiatives or policies.

LithTec4Roads™ **GREEN TECHNOLOGY** is an environmentally friendly product, that is listed as a zero on the SDS (safety data sheet) regarding the environment and has passed the EPA Synthetic Leaching Procedure testing (SPLP TCLP 1311 and 1312) demonstrating that there are no harmful chemicals leaching into the environment and LithTec™ can also encapsulate toxic materials to prevent any leaching of harmful chemicals into the ground and water sources. Road projects using LithTec™ over traditional road building methods can significantly reduce the carbon footprint in the construction installation. For example, LithTec™ requires approximately 7 truckloads of Product in a 1 mile road x 24' wide, compared to 98 truckloads of basecourse. A LithTec™ treated base with 500,000 psi modulus, provides the opportunity to reduce the asphalt thickness by 50% to 67% by way of transferring the structural credits that are typically only found in the thickness of the asphalt surface, into the LithTec™ treated base layer through "Value Engineering". Lithified Technologies has also successfully demonstrated the encapsulation of harmful and toxic chemicals found in mine tailing and abandoned uranium mines (AUM's) which serve to remediate toxic contamination at these sites.

- F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.

Lithified Technologies provides an installation specification that allows any certified road contractor to install the LithTec™ product. We recommend however that customers require using a contractor that has a minimum of 2-years' experience in installing lime stabilization or cement treated base stabilization. Most road construction companies have the traditional road construction equipment such graders, water trucks and rollers however many do not have the cement spreader truck or reclaimers that are necessary to spread the LithTec™ product at a calibrated dosage and blend the product evenly into the top 6", 8" or 10" base, while simultaneously adding water to achieve optimum moisture content (OMC). There are a number of companies that specialize in these two types of equipment and we can help facilitate bringing in these types of companies whenever needed.

G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:

a. Minority Women Business Enterprise

No

If yes, list certifying agency: _____

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

No

If yes, list certifying agency: _____

c. Historically Underutilized Business (HUB)

No

If yes, list certifying agency: _____

d. Historically Underutilized Business Zone Enterprise (HUBZone)

No

If yes, list certifying agency: _____

e. Other recognized diversity certificate holder

No

If yes, list certifying agency: _____

- H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.

Coughlin Construction

Darren Coughlin

darren@coughlincompany.com

435-703-1268

Wollam Construction

Travis Sparks

801-608-4166

tsparks@wollamconstruction.com

www.wollamconstruction.com

Pavement Recycling System

951-934-4734 or 951-712-2542

sshoe-maker@pavementrecycling.com

nvaldez@pavementrecycling.com

10240 San Sevaine Way

Jurupa Valley, CA 91752

Pavementrecycling.com

BitCo

Jeremiah Bitsui

4801 Lang Avenue NE, Suite 2010

Albuquerque, NM 87102

505-768-1000

GM Emulsion

Gabe Martinez

505-471-9981

505-840-9709

gabriel@gmemulsion.com

5935 Agua Fria

Santa Fe, NM 87507

B Jackson

Bart Jackson - Owner

801-260-0988

K-Five Construction Corp

Tony Floramo

262-240-4100 ext.111 or 815-347-9449

tonyf@k-five.net

999 Oakmont Plaza Drive

Westmont, IL 60559

K-five.com

Thorn Milling & Construction

Cody Thorn

Salt Lake, UT

801-694-6259

B Jackson

Bart Jackson - Owner

801-260-0988

Diversified Minerals, Inc.

Andy Austin

1100 Mountain View Ave. Suite F

Oxnard, CA 93030

Western Material & Design, LLC

PO Box 268

Lee's Summit, MO 64063

Basalite Concrete Products

Various locations across the US

707-678-1901

Lithified Technologies Texas, LLC

602 Heathgate Drive, Houston TX 77062

All Assets Global Management, LLC (AAGM)

691 CR 233 Unit B-4

Durango CO, 81301

Kiewit Corporation

Various locations across the US

kiewit.com

Rock Solid
1610 W Wisconsin Ave
Appleton, WI 54911

Griffin Soil Construction
Bill Howard
Northern California
813.637.7011

Granite
Various locations across the US
www.graniteconstruction.com

Lane
Various locations across the US
www. laneconstruct.com

Staker and Parsons
6500 S Old Spanish Trail
Tucson, AZ 85747

Mid States
www.midstatesconstruction.com
53697 Co. Rd, 9, Elkhart IN 46514

Mt Carmel Soil Stabilization
Darren Coughlin
435-703-1268

Griffith Construction
California

LT Solutions
Steve Standley

DevRen, LLC
Todd Jorn

Additional Subcontractor and Affiliate Names will be Provided on a Periodic Basis

I. Describe how supplier differentiates itself from its competitors.

What distinguishes LithTec™ from other products?

The installation specifications for Cement Treated Base (CTB) and LithTec™ Treated Base (LTB) are very similar with several distinct differences. Both products require a cement spreader truck for the powder to be applied at a designated dosage into the road base material. Both are mixed into the road base with a Reclaimer at Optimum Moisture Content (OMC) however LithTec™ LTB has a formulation designed for Recycled Asphalt (RAP), enabling it to be mixed into the basecourse and recycled in place and does not require exporting the RAP to a landfill or recycle plant prior to treating the base, which is a significant savings to the project. The LithTec™ treated base is then compacted with a sheep's foot roller, then a motor grader puts a crown the road and the final compaction is performed with a steel drum roller, then it is ready for a chip seal or asphalt surface.

Distinctions between LithTec™ and Cement Treated Base (CMT)

1. LithTec™ dosage is typically 3% to 4%, installed at a depth of 6" to 8", which requires 135 to 240 tons per mile and achieves a 400 UCS to 800 UCS (Unconfined Compressive Strength). The average dosage for CMT is 5% to 6%, treated to a depth of 12" to 16" (due to the lack of ductility of CMT), requiring 450 to 720 tons per mile, which achieves a 250 UCS – 400 UCS.

2. LithTec™ achieves can achieve a much higher strength than cement, while remaining "Ductile or Flexible", which does not exist in cement treated base. Cement is very brittle and prone to crack, which is why the Portland Cement Association specification recommends **not exceeding 400 UCS**, as it becomes exceedingly brittle at the UCS increases and will result in reflective cracking in the asphalt surface. Consequently, the spec also requires micro-fracturing, (pre-cracking the cement treated base with a flat wheel roller, with the vibrator on high, in an attempt to reduce the amount of shrinkage cracks and reflective cracking that will occur in the asphalt surface when placed on top of a cement treated base. A CTB of 400 UCS is reduced to approximately 250 UCS after micro-fracturing, which then reduces the load bearing capacity of the road.

The cracks that occur in the base after micro-fracturing also provide openings for water infiltration in the road's foundation, which is the leading cause for road failures. LithTec™ achieves a much higher strength of 400 to 800 UCS, while remaining highly ductile, so **micro-fracturing is not recommended**. The LithTec™ treated base remains bound and non-dispersive while under water, preventing water infiltration, which leads to erosion, cracking, potholes, frost heave and further damage from freeze thaw cycles.

3. During the installation process water is added to the cement treated base to achieve Optimum Moisture Content (OMC). As soon as water is introduced into cement, it immediately begins to bond with the road base material. Each time the reclaimer, motor grader or sheep's foot passes through the road base material, it breaks those bonds, which will never reconnect again once broken. As a result, the cement is losing strength with each passing hour, which is why the Portland Cement Association specification requires that the CMT installation be completed within two hours or less. This makes it difficult for road contractors as it requires smaller sections of road be worked on to complete the process within only 2 hours. The LithTec™ formulations have a delayed set time of 6 to 8 hours before it begins to set up, which makes it much more forgiving for contractors to install, enabling them to have much more time to complete the road section. As a result, they can work on much longer sections of road and ultimately achieve up to double the production rate per day, which saves approximately \$35,000 per day in equipment and labor.

4. Lithified Technologies US is the manufacturer and supplier of LithTec with state-of-the-art Geotechnical lab and a team of Geotech's that perform a battery of 8 different soil and material test according to ASTM and AASHTO standards, and develops a customized formulation, which optimizes the performance in every road project. All field geotechnical testing is included in the purchase price, which ensures that the contractors / installers are achieving the same performance numbers in the field, that were achieved in the lab, which is part of the built in Quality Control and Quality Assurance for every project.

5. Most importantly, because of the High Strength and High Ductility of a LithTec™ Treated Base (LTB), the LithTec™ treated base will increase in strength of base course from 25,000 psi modulus (a measurement of Resilient Modulus) to 500,000 psi modulus, which is the equivalent strength as asphalt. This enables engineers and road designers, to transfer the structural coefficient or structural numbers (typically achieved in the thickness of the asphalt) into the road's foundation or base for a fraction of the cost through "**Value Engineering**". As a result, the thickness of the asphalt can be reduced by 50% to 67% from a traditional road design, as every inch of a LithTec™ treated base now has the equivalent strength of asphalt. In summary, Value Engineering is achieved through the reduction in asphalt thickness as well as the reduction in imported base course to the project, which can save the entire project between 25% to 50% over traditional road build methods.

6. LithTec™ is a green and environmentally friendly product rated as a zero environmentally on the SDS sheet. It has also passed the EPA Synthetic Precipitation Leaching Procedure (SPLP) test, which demonstrates that there are no harmful ingredients that can leach out into the environment. In addition, the product has the ability to encapsulate harmful ingredients and keep them from reaching out into the environment.

- J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.
We have a claim filed against a former licensee for default on a promissory note payment and other related issues. This licensee has submitted a counter claim which we believe lacks merit.
- K. Felony Conviction Notice: Indicate if the supplier
- a. a is a publicly held corporation and this reporting requirement is not applicable; We are not a publicly held corporation.
 - b. is not owned or operated by anyone who has been convicted of a felony? No
 - c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions. N/A
- L. Describe any debarment or suspension actions taken against supplier None

3.3 Distribution, Logistics

- A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.

Lithified Technologies offers custom formulations across a wide spectrum of soil classifications ranging from a zero Plasticity Index (PI) to a 50 PI, which would be the equivalent of blow sand to an expansive clay.

The LithTec™ Product is used to treat the base layer or foundation under the road's surface to achieve unprecedented load bearing capacity and resistance to water, which are the top two reasons that roads fail. This enables engineers and road designers to transfer the structural credits typically found in the asphalt surface into the base layer at a fraction of the cost thereby allowing the thickness of the asphalt pavement design to be reduced by 50% to 67% through a process called "Value Engineering", which can result in an overall savings to the project of between 25 and 50%.

Type of Projects for LithTec™ would include parking lots, laydown yards, walking and bike trails, rural roads, secondary feeder roads, interstate highways, haul roads, and service roads.

New Road Construction, Reconstruction, FDR, Gravel to Chip Seal: LithTec™ can be used in new construction to build the roads right from the beginning. It is also used in reconstruction in a Full Depth Reclamation (FDR) or what we refer to as Full Depth Lithification FDL for failing asphalt and chip seal roads. We recycle the failing asphalt in place and achieve 500,000 psi modulus is the base making the foundation 2,000% stronger than high quality base course. County or rural gravel roads can be treated with LithTec™ to achieve the same strength as asphalt, then place a chip sealed surface on top to produce a long-lasting road that looks and performs like asphalt for approximately 25¢ - 30¢ on the dollar, when compared to an asphalt road, enabling a county to get more miles out of their budget with longer lasting high quality roads that cost less to build and maintain that is also environmentally friendly.

Services: Lithified Technologies offers full geotechnical support including material sampling, product customization, geotechnical test reports, project coordination with the contractor, blending facility and shipping company. Our field geotechs provide quality control and quality assurance during the installation process, all of which are services that have never been offered before in the industry.

- B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.

Lithified Technologies works with a network of blending partners and affiliates in the US and Canada to blend our custom product to order and ship directly to the job site. See attached map: "Mixing Station Map 222.pdf"

Lithified Technologies US owns the licensing and distributions rights for all 50 states and its 16 protectorates that include Puerto Rico, Virgin Islands, Guam etc. For the Region 4 offering, New Jersey shall be excluded.

- C. Describe how Participating Agencies are ensured they will receive the Master Agreement pricing; include all distribution channels such as direct ordering, retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

Lithified Technologies offers product sales through our Licensees in Texas, New Mexico, Arizona, Colorado and Utah. In addition, LT-US has direct sales through our salespeople and Business Development Representatives (BDRs) that cover all 50 states. Verification of pricing is available through Lithified Technologies US (LT-US) corporate office in Santa Fe, New Mexico, USA. LT-US sets the pricing through all of its distribution networks and will ensure that the customers of Region 4 receive preferred pricing as provided in this document.

- D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

Western Materials and Design, LLC and Sutton Trucking, Diversified Minerals, Inc., Basalite Concrete Products, US Transport and other shipping companies to be determined at the time of shipping. Additional blending affiliates may be added from time to time and will be updated as applicable.

- E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

See Map "Mixing Station Map 222.pdf" in ATTACHMENTS folder

3.4 Marketing and Sales

- A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:
- i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days.
CEO will make an announcement of the Region 4 Award to all employees of LT-US, all Licensees and their salespeople, and to all of the National BDRs.
 - ii. Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days.
LT-US will host a LithTec™ training program for the Omnia Partners team members and Regional Sales managers and provide them with information and materials necessary to make them effective on their sales calls with an understanding of the basic benefits of LithTec and how it can provide road projects a substantial savings, with higher quality, longer lasting roads. In addition, we will do a webinar for all prospects every other week that will provide the opportunity for all Omnia Partner's prospects, LT-US BDR prospects, Licensee prospects and Direct sale prospects to learn more about LithTec™ through a detailed and technical PowerPoint presentation, hosted by the Founder and CEO of Lithified Technologies, US
- B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:
- i. Creation and distribution of a co-branded press release to trade publications
 - ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days
 - iii. Design, publication and distribution of co-branded marketing materials within first 90 days
 - iv. Commitment to attendance and participation with OMNIA Partners at national (i.e., NIGP Annual Forum, NPI Conference, etc.), regional (i.e., Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
 - v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space

will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.

- vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
- vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
- viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:
 - OMNIA Partners standard logo.
 - Copy of original Request for Proposal.
 - Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier.
 - Summary of Products and pricing.
 - Marketing Materials
 - Electronic link to OMNIA Partners' website including the online registration page.
 - A dedicated toll-free number and email address for OMNIA Partners

LT-US will announce our new relationship as a supplier of our LithTec™ products and services through OMNIA Partners, the largest and most experienced group purchasing organization in the US. We will create marketing materials that feature the co-branding of the two companies and announcements and press releases will publicize our new relationship on our company website within 90 days that will show the details of our Master Agreement. It will also be announced on our weekly webinars and Zoom training sessions and at industry trade shows that we attend each year.

Webinars and Zoom training sessions will be made available weekly to our Business Development Representatives, Licensees and their sales teams as well as educational webinars weekly for our Public Agency customers with question and answer sessions at the end of the webinar. The Public Agency customers will be given an opportunity within the first 90 days to select their first road project and receive GPS mapping and soil sampling, geological testing including the results of the testing provided in a geotechnical report that shows the before and after results of the LithTec™ treat samples at no cost to them (a value of \$12,000).

LT-US will make the commitment to attendance and participation with OMNIA Partners at national (i.e., NIGP Annual Forum, NPI Conference, etc.), regional (i.e., Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement. LT-US agrees to purchase booth space and exhibit at the NIGP Annual Forum and will provide assistance in the promotion and marketing efforts for the NIGP Annual Forum.

LT-US agrees to promote and market the Master Agreement throughout the term and provide project case studies, collateral pieces, presentations, promotions, training and webinars to create a dedicated OMNIA Partners homepage on the LithTec.com website that will incorporate the OMNIA Partners standard logo, a copy of original Request for Proposal and copy of Master Agreement and amendments between Principal Procurement Agency and Supplier. We will provide a summary of Products and pricing and make all Marketing Materials available. An Electronic link to the OMNIA Partners' website including the onlineregistration page will be provided and LT-US will dedicate a toll-free number and email address for OMNIAPartners.

The LT-US sales training will include the key features of the Master Agreement an understanding of the solicitation process and training on the range of Public Agencies that can utilize the MasterAgreement through OMNIA Partners as well as understanding of the benefits for using cooperative contracts

Lithified Technology's core business is with Public Works Directors that represent their counties. We will continue to market to these existing repeat customers (a list will be provided) and transition them into Public Agency customers on the Master Agreement available nationally through OMNIA Partners, with the starting date that LT-US is awarded the Master Agreement.

Harris County, TX, San Juan County, UT, Quay County, NM, Chavez County, NM, Eddy County, NM, San Benito County, CA, Howard County, TX, El Paso County, CO, Archuleta County, CO, Stanislaus County, CA, Santa Fe County, NM, Sandoval County, NM, Duchesne County, UT, Maricopa County, AZ, Emery County, UT, City of Mt Pleasant, UT, City of Santa Fe, NM, City of Prescott, AZ, City of Flagstaff, AZ, City of Sunland Park in Dona Ana County, NM, Village of Angel Fire, NM, City of Port Arthur, TX, Town of Rush Valley, UT, ADOT, Yuma, AZ, NMDOT, NM, UDOT, UT, LADOT, LA, TNDOT, TN, TXDOT, TX.

LT-US will provide our logo(s) to OMNIA Partners and will grant permission for the reproduction of our logo in marketing communications and promotions and we will request the use of OMNIA Partners logo for the same purposes and understand that this is will require permission for reproduction, as well.

As stated above LT-US will train and deploy or direct sales representatives, BDRs and Licensees to sell our product and services to the Public Agencies nationwide. Any leads provided by OMNIA Partners will be followed up in a timely manner. All sales materials to our public sector customers will include the OMNIA Partners logo. LT-US sales initiatives will communicate that Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency, providing the best government pricing at no cost to participate and is Non-exclusive.

- C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.
- D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agree to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.
- E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:
- F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:
 - i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
 - ii. Best government pricing
 - iii. No cost to participate
 - iv. Non-exclusive

Lithified Technology's core business is with Public Works Directors that represent their counties. We will continue to market to these existing repeat customers (a list will be provided) and transition them into Public Agency customers on the Master Agreement available nationally through OMNIA Partners, with the starting date that LT-US is awarded the Master Agreement.

Harris County, TX, San Juan County, UT, Quay County, NM, Chavez County, NM, Eddy County, NM, San Benito County, CA, Howard County, TX, El Paso County, CO, Archuleta County, CO, Stanislaus County, CA, Santa Fe County, NM, Sandoval County, NM, Duchesne County, UT, Maricopa County, AZ, Emery County, UT, City of Mt Pleasant, UT, City of Santa Fe, NM, City of Prescott, AZ, City of Flagstaff, AZ, City of Sunland Park in Dona Ana County, NM, Village of Angel Fire, NM, City of Port Arthur, TX, Town of Rush Valley, UT, ADOT, Yuma, AZ, NMDOT, NM, UDOT, UT, LADOT, LA, TNDOT, TN, TXDOT, TX.

LT-US will provide our logo(s) to OMNIA Partners and will grant permission for the reproduction of our logo in marketing communications and promotions and we will request the use of OMNIA Partners logo for the same purposes and understand that this will require permission for reproduction, as well.

As stated above LT-US will train and deploy or direct sales representatives, BDRs and Licensees to sell our product and services to the Public Agencies nationwide.

Any leads provided by OMNIA Partners will be followed up in a timely manner. All sales materials to our public sector customers will include the OMNIA Partners logo. LT-US sales initiatives will communicate that Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency, providing the best government pricing at no cost to participate and is Non-exclusive.

- i. Key features of Master Agreement
- ii. Working knowledge of the solicitation process
- iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
- iv. Knowledge of benefits of the use of cooperative contracts

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

i. Executive Support

Bob Sherwin, CEO
bob@lithtec.com
505-982-7444

Josh Cantrell, COO
josh@lithtec.com
505-501-2558

ii. Marketing

Aeron Goldheart, VP of Marketing & Media
aeron@lithtec.com
214-693-9522

iii. Sales

Bob Sherwin, CEO
bob@lithtec.com
505-982-7444

Josh Cantrell, COO
josh@lithtec.com
505-501-2558

Max Sherwin
max@lithtec.com
435-669-8276

iv. Sales Support

Ken Hardin
ken@lithtec.com
512-694-7016

Barbara Salas
Barbara@lithtec.com
505-982-7444

v. Financial Reporting

Patricia Shaw
tricia@lithtec.com
505-982-7444

vi. Accounts Payable

Sonnia Cassidy
sonnia@lithtec.com
505-982-7444

vii. Contracts

Joe McClaugherty
joe@mcsilverlaw.com
505-988-8803

Rich White
rich@lithtec.com
925-787-0827

Patricia Shaw
tricia@lithtec.com
505-982-7444

- H. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

As stated above LT-US's national sales force includes our Licensees in NM, AZ, UT, CO and Texas as well as their sales teams. We have over 100 national Business Representatives (BDRs) and our in house direct sales team. Bob Sherwin, CEO is the executive in charge of all sales for the Company.

- I. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.

LT-US will provide training to all of the Omnia sale representatives and regional sales managers. In addition, a one hour webinar will be available every other week for the Omnia sale representatives and regional sales managers to send their prospects to. As a result, the Omnia regional sales managers do not need to know all of the technical aspects of selling LithTec™, rather just the basics that include why it is superior to all other soil stabilizers and how it will save the customer 25% to 50% and provide higher quality roads that cost less to build and maintain.

- I. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.

LT-US sales, marketing department will continue to offer training and informative webinars to our Omnia sales partners, Agency customers and National sales teams. We will attend industry trade shows and work in concert with Omnia to optimize the sales efforts of both companies. LT-US accounting, administration and finance department will work closely with Omnia Partners to ensure that all contract administration is handled in a timely manner.

- J. State the amount of Supplier’s Public Agency sales for the previous fiscal year. Provide a list of Supplier’s top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

Quay County	\$	148,800.00	2020
Duchesne County	\$	126,750.00	2020
Duchesne County	\$	280,150.00	2020
City of Prescott	\$	416,707.50	2020
Stanislaus County	\$	757,333.00	2019
San Juan County	\$	348,750.00	2019
Archuleta County	\$	114,750.00	2019
Quay County	\$	116,967.50	2018
Chavez County	\$	186,010.00	2018
San Juan County	\$	273,262.65	2018

- K. Describe Supplier’s information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

Lithified Technologies uses Buildertrend, a project management platform that features a pre-sales process, financial tools, internal and external communication and customer management. This system comes with functions such as DocuSign, payment processing and QuickBooks. This program interfaces with Microsoft Office Suite, allowing us to upload our lab testing data and related documents. Buildertrend centralizes all job documentation, tracking the job from inception to completion, including all files, photos, videos, daily logs, and financial documentation. The Quickbooks system tracks and records all financial transactions, such as receivables, beginning with estimates and ending with receipt of payment. The system requires some manual data entry that can allow for the potential of error.

- L. Provide the Contract Sales (as defined in Section 12 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement (“Guaranteed Contract Sales”).

\$ TBD in year one
 \$ TBD in year two
 \$ TBD in year three

To the extent Supplier guarantees minimum Contract Sales, the Administrative Fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

- M. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

- i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).
- ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.
- iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).
- iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier's strategies under these options when responding to a solicitation.

c) Qualification and Experience

- i. Provide a brief history of the Offeror, including year it was established and corporate office location.

Lithified Technologies US, LLC (LT-US) was formed on 7-1-2014. The company has approximately 95 investors / LLC Members. We have performed literally tens of thousands of tests, and spent over \$21 million in R&D to develop our custom formulations that have achieved unprecedented performance numbers with regard to loadbearing capacity, unconfined compressive strength, R-Value, resistance to water, high ductility, controlling shrink and swell in clay soils, remaining bound and nondispersive while underwater, post submersion strength testing and others.

In addition, we have developed new technologies and applications that involve the capping of Abandoned Uranium Mines (AUMs), the remediation of superfund sites, and containment of toxic mine tailings that have passed the environmental protection agency SPLP and TCLP tests that demonstrate that we can encapsulate harmful and environmentally toxic ingredients from entering our water tables or environment. The LithTec Earth Pond Liners can be used to line and cap landfills, agricultural evaporative pond liners in the dairy industry, bio fuel algae pond liners, earth blocks for residential and commercial construction and other technologies that are currently in development. Our Corporate office and Geotechnical laboratory are located at 218 Camino la Tierra, Santa Fe, NM 87506

- ii. Describe Offeror's reputation in the marketplace.

Lithified Technologies has received extensive television and news stories which demonstrate unprecedented geotechnical performance numbers which have been substantiated by numerous laboratories including Los Alamos National Laboratory (LANL). A testimonial video which includes several public works directors and the two co-chairmen of the New Mexico Association of Counties speak to their experiences with LithTec™ as well as the former President of the Navajo Nation and one of the largest road construction companies in California, Griffin Soil Group.

See attached Testimonial videos in the "Videos Folder" of the flash drive and the article featured in the LANL annual report Perspectives, as well as an article featured in Asphalt Contractor magazine

- iii. Describe Offeror's reputation of products and services in the marketplace.

Lithified Technologies offers full geotechnical support including material sampling, product customization, geotechnical test reports, project coordination with the contractor, blending facility and shipping company. Our field geotechs provide quality control and quality assurance during the installation process, all of which are services that have never been offered by any other company in the industry.

- iv. Describe the experience and qualification of key employees.

See attached Bios of management team in ATTACHMENTS folder.

- v. Describe Offeror's experience working with the government sector.
Lithified Technologies has worked with numerous Cities, Counties, State DOT's, Los Alamos National Laboratories, FEMA, FHWA, AASTO, ASTM, National Transportation Product Evaluation Program (NTPEP), SBA, BLM, Navajo Nation, Southern Utes and other sovereign nations and the National Forest Service.
- vi. Describe past litigation, bankruptcy, reorganization, state investigations of entity or current officers and directors.
We settled a claim in the past involving a former product manufacturer that attempted to steal our formulations and IP and we have a current claim filed against a former licensee involving their default on promissory note due to LT-US and other related issues. This licensee has submitted a counter claim which we believe lacks merit.
- vii. Provide a minimum of 5 customer references relating to the products and services within this RFP. Include entity name, contact name and title, contact phone and email, city, state, years serviced, description of services and annual volume.
- Larry Moore, Quay County, NM - 2018, "Airport Rd Project", "AR Rd Project" 575.403.7735 Larry.Moore@quaycounty-nm.gov
- Joe West, Chaves CO 2018, "Omaha Haul Road Project" 575.626.7674 jwest@co.chaves.nm.us
- Archuleta County – 3 Road Partitions - Bob Perry 970.275.2556 cell frontporcheng@gmail.com
- Dennis Seal – Former TX DOT Engineer, Currently Lead Engineer with Pape Dawson Engineers 972.489.6950
- Greg Gentsch – Former AZ DOT Engineer, Currently Lead Engineer with Fisher Industries 480.254.8475
- Guilles Bussod, PhD Scientist with LANL – 505.629.5864
- Sandoval County 2021, "CR13 Cuba Project" Installer Gabe Martinez 505.840.9709. cell gabriel@gmemulsion.com
- Sky Ute Fairgrounds 2021, "Sky Ute Fairgrounds Rd Project" Jay Dee Brunson, 970.759.5794 cell jdbrunson@skyutefairgrounds.com
- Union Pacific 21-2022, "Old Colton Project" Levi Turner, P.E. 720.445.1082 cell ljt@deainc.com
- San Juan County 2019 : "Landfill Road Project", "Dude Ranch Road" Clark Hawkins chawkins@sanjuancounty.org - 435.587.3225 Cell
- City of Sunland Park, NM 2017, "Santa Teresita Road Project" Hector Rangel hector.rangel@sunlandpark-nm.gov 575.520.5135, 575.589.7565

viii. Provide any additional information relevant to this section.

See: Los Alamos National Labs (LANL) White Papers "White Paper LANL Report 38pg on LithTec testing.pdf" in ATTACHMENTS folder.

d) Value Add

- i. Provide any additional information related to products and services Offerorproposes to enhance and add value to the Contract.

What distinguishes LithTec™ from other products?

The installation specifications for Cement Treated Base (CTB) and LithTec™ Treated Base (LTB) are very similar with several distinct differences. Both products require a cement spreader truck for the powder to be applied at a designated dosage into the road base material. Both are mixed into the road base with a Reclaimer at Optimum Moisture Content (OMC) however LithTec™ LTB has a formulation designed for Recycled Asphalt (RAP), enabling it to be mixed into the basecourse and recycled in place and does not require exporting the RAP to a landfill or recycle plant prior to treating the base, which is a significant savings to the project. The LithTec™ treated base is then compacted with a sheep's foot roller, then a motor grader puts a crown the road and the final compaction is performed with a steel drum roller, then it is ready for a chip seal or asphalt surface.

Distinctions between LithTec™ and Cement Treated Base (CMT)

1. LithTec™ dosage is typically 3% to 4%, installed at a depth of 6" to 8", which requires 135 to 240 tons per mile and achieves a 400 UCS to 800 UCS (Unconfined Compressive Strength). The average dosage for CMT is 5% to 6%, treated to a depth of 12" to 16" (due to the lack of ductility of CMT), requiring 450 to 720 tons per mile, which achieves a 250 UCS – 400 UCS.
2. During the installation process water is added to the cement treated base to achieve Optimum Moisture Content (OMC). As soon as water is introduced into cement, it immediately begins to bond with the road base material. Each time the reclaimer, motor grader or sheep's foot passes through the road base material, it breaks those bonds, which will never reconnect again once broken. As a result, the cement is losing strength with each passing hour, which is why the Portland Cement Association specification requires that the CMT installation be completed within two hours or less. This makes it difficult for road contractors as it requires smaller sections of road be worked on to complete the process within only 2 hours. The LithTec™ formulations have a delayed set time of 6 to 8 hours before it begins to set up, which makes it much more forgiving for contractors to install, enabling them to have much more time to complete the road section. As a result, they can work on much longer sections of road and ultimately achieve up to double the production rate per day, which saves approximately \$35,000 per day in equipment and labor.
3. Lithified Technologies US is the manufacturer and supplier of LithTec with state-of-the-art Geotechnical lab and a team of Geotech's that perform a battery of 8 different soil and material test according to ASTM and AASHTO standards, and develops a customized formulation, which optimizes the performance in every road project. All field geotechnical testing is included in the purchase price, which ensures that the contractors / installers are achieving the same performance numbers in the field, that were achieved in the lab, which is part of the built in Quality Control and Quality Assurance for every project.

4. Most importantly, because of the High Strength and High Ductility of a LithTec™ Treated Base (LTB), the LithTec™ treated base will increase in strength of base course from 25,000 psi modulus (a measurement of Resilient Modulus) to 500,000 psi modulus, which is the equivalent strength as asphalt. This enables engineers and road designers, to transfer the structural coefficient or structural numbers (typically achieved in the thickness of the asphalt) into the road's foundation or base for a fraction of the cost through "**Value Engineering**". As a result, the thickness of the asphalt can be reduced by 50% to 67% from a traditional road design, as every inch of a LithTec™ treated base now has the equivalent strength of asphalt. In summary, Value Engineering is achieved through the reduction in asphalt thickness as well as the reduction in imported base course to the project, which can save the entire project between 25% to 50% over traditional road build methods.
 5. LithTec™ is a green and environmentally friendly product rated as a zero environmentally on the SDS sheet. It has also passed the EPA Synthetic Precipitation Leaching Procedure (SPLP) test, which demonstrates that there are no harmful ingredients that can leach out into the environment. In addition, the product has the ability to encapsulate harmful ingredients and keep them from reaching out into the environment.
-
3. Competitive Range: It may be necessary to establish a competitive range. Factors from the predetermined criteria will be used to make this determination. Responses not in the competitive range will not receive further award consideration. Region 4 ESC may determine establishing a competitive range is not necessary.
 4. Past Performance: An Offeror's past performance and actions are relevant in determining whether or not the Offeror is likely to provide quality goods and services; the administrative aspects of performance; the Offeror's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Offeror's businesslike concern for the interests of the customer may be taken into consideration when evaluating proposals, although not specifically mentioned in the RFP.
 5. Additional Investigations: Region 4 ESC reserves the right to make such additional investigations as it deems necessary to establish the capability of any Offeror.

ACKNOWLEDGMENT AND ACCEPTANCE
OF REGION 4 ESC's OPEN RECORDS POLICY

OPEN RECORDS POLICY

All proposals, information and documents submitted are subject to the Public Information Act requirements governed by the State of Texas once a Contract(s) is executed. If an Offeror believes its response, or parts of its response, may be exempted from disclosure, the Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt and include detailed reasons to substantiate the exemption. Price is not confidential and will not be withheld. Any unmarked information will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 4 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. Region 4 ESC must comply with the opinions of the OAG. Region 4 ESC assumes no responsibility for asserting legal arguments on behalf of any Offeror. Offeror is advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

Signature below certifies complete acceptance of Region 4 ESC's Open Records Policy, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the Acknowledgment and Acceptance of Region 4 ESC's Open Records Policy below:

We acknowledge Region 4 ESC's Open Records Policy and declare that no information submitted with this proposal, or any part of our proposal, is exempt from disclosure under the Public Information Act.

We declare the following information to be a trade secret or proprietary and exempt from disclosure under the Public Information Act.

(Note: Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, Offeror must include detailed reasons to substantiate the exemption(s). Price is not confidential and will not be withheld. All information believed to be a trade secret or proprietary must be listed. It is further understood that failure to identify such information, in strict accordance with the instructions, will result in that information being considered public information and released, if requested under the Public Information Act.)

2-17-2022
Date



Authorized Signature & Title

ANTITRUST CERTIFICATION STATEMENTS
(Tex. Government Code § 2155.005)
Attorney General Form

I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this Contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
2. In connection with this proposal, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
3. In connection with this proposal, neither I nor any representative of the Company has violated any federal antitrust law; and
4. Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this proposal to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Company Lithified Technologies US, **Contact**
LLC


Signature

Robert Sherwin


Printed Name

CEO

Position with Company

Address 218 Camino La Tierra
Santa Fe NM 87506

**Official
Authorizing
Proposal**


Signature

Robert Sherwin

Printed Name

CEO

Position with Company

Phone 505-982-7444

Fax

Implementation of House Bill 1295

Certificate of Interested Parties (Form 1295):

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law. The commission does not have any additional authority to enforce or interpret House Bill 1295.

Filing Process:

Starting on January 1, 2016, the commission made available on its website a new filing application that must be used to file Form 1295. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form. The completed Form 1295 with the certification of filing must be filed with the governmental body or state agency with which the business entity is entering into the contract.

The governmental entity or state agency must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. This process is known as acknowledging the certificate. The commission will post the acknowledged Form 1295 to its website within seven business days after receiving notice from the governmental entity or state agency. The posted acknowledged form does not contain the declaration of signature information provided by the business.

A certificate will stay in the pending state until it is acknowledged by the governmental agency. Only acknowledged certificates are posted to the commission's website.

Electronic Filing Application:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Frequently Asked Questions:

https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php

Changes to Form 1295: <https://www.ethics.state.tx.us/data/filinginfo/1295Changes.pdf>

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
 2022-851615

Date Filed:
 02/16/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lithified Technologies
 Santa Fe, NM United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Region 4 Education Service Center

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

22-09

LithTec™ is a High-Performance combination of proprietary premium components with traditional cementitious elements that when mixed in road base soils create unprecedented strength in road foundations

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

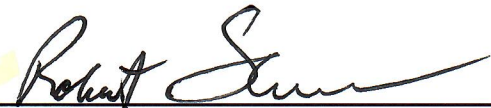
6 UNSWORN DECLARATION

My name is Robert Sherwin, and my date of birth is 9-26-1955.

My address is 218 Camino La Tierra Santa Fe NM 87506 USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Santa Fe County, State of NM, on the 17 day of Feb, 2022
(month) (year)


 Signature of authorized agent of contracting business entity
 (Declarant)

Texas Government Code 2270 Verification Form

House Bill 89 (85R Legislative Session), which adds Chapter 2270 to the Texas Government Code, provides that a governmental entity may not enter into a contract with a company without verification that the contracting vendor does not and will not boycott Israel during the term of the contract.

Furthermore, Senate Bill 252 (85R Legislative Session), which amends Chapter 2252 of the Texas Government Code to add Subchapter F, prohibits contracting with a company engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared by the Texas Comptroller.

I, Robert Sherwin, as an authorized representative of

Lithified Technologies US LLC, a contractor engaged by

Insert Name of Company

Region 4 Education Service Center, 7145 West Tidwell Road, Houston, TX 77092, verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future.

Also, our company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>.

I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.

I swear and affirm that the above is true and correct.

Robert Sherwin
Signature of Named Authorized Company Representative

2-17-2022
Date

FELONY CONVICTION NOTIFICATION

Section 44.034, Texas Education Code, Notification of Criminal History, Subsection (a), states "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

This Notice is Not Required of a Publicly-Held Corporation

CRIMINAL HISTORY REVIEW OF CONTRACTOR EMPLOYEES

Offeror shall review §22.0834, Texas Education Code and 19 Texas Administrative Code §§153.1101 and 153.1117 regarding criminal history checks of school contractor employees. The rules define continuing duties related to contracted services, direct contact with students, covered contract employee and other relevant terms within the statute.

Except as otherwise provided herein, Offeror will obtain and certify in writing, before work begins, that the Offeror has received all criminal history record information that relates to an employee, applicant, agent or Subcontractor of the Offeror/Contractor or Subcontractor, if the person has or will have continuing duties related to the contracted services, and the duties are or will be performed on Region 4 ESC's, or Participating Public Agency as applicable to the Texas Education Code, property where students are regularly present or at another location where students are regularly present. Awarded Offer(s) shall assume all expenses associated with the background checks and shall immediately remove any employee or agency who was convicted of, receive probation for, or received deferred adjudication for any felony as outlined below or any misdemeanor involving moral turpitude, from Region 4 ESC's property or other location where students are regularly present.

Offeror/Contractor or sub-contractors may not work on Region 4 ESC's, or Participating Public Agency where the Texas Education Code may be applicable, property where students are present when they have been convicted, received probation, or deferred adjudication for the following felony offenses:

1. Any offense against a person who was, at the time the offense occurred, under 18 years of age or enrolled at a public school;
2. Any sex offense;
3. Any crimes against persons involving:

- a. Controlled substances; or
 - b. Property; or
4. Any other offense Region 4 ESC, or Participating Public Agency where the Texas Education Code may be applicable, believes might compromise the safety of students, employees or property.

I, Robert Sherwin, as an authorized representative of CEO, the Offeror verify that:

A. My company **is not** owned nor operated by anyone who has been convicted of a felony.

Signature of Company Official:  Date: 2-17-2022

B. My company **is owned** or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s) : _____

Date: _____

C. My company is a **publicly held** corporate, therefore, this reporting requirement is not applicable.

Signature of Company Official: _____ Date: _____

Tab 6 – Additional Required Documents (Appendix C)

- a. Acknowledgment and Acceptance of Region 4 ESC’s Open Records Policy (Appendix C, Doc #1)
 - b. Antitrust Certification Statement (Tex. Government Code § 2155.005) (Appendix C, Doc #2)
 - c. Implementation of House Bill 1295 Certificate of Interested Parties (Form 1295) (Appendix C, Doc #3)
 - d. Texas Government Code 2270 Verification Form (Appendix C, Doc #4)
 - e. Felony Conviction Notification (Appendix C, Doc #5)
 - f. Any additional agreements Offeror will require Participating Agencies to sign
1. Additional Agreements: If an Offeror requires additional agreements, a copy of the proposed agreement must be included with the proposal.

SEE NON-DISCLOSURE, CONFIDENTIALITY AGREEMENT (NDA AGREEMENT) – PDF ATTACHED in TAB 7 ATTACHMENTS

2. Open Records Policy: Proposals submitted in response to this RFP become a matter of public record subject to release after Contracts are executed. If an Offeror believes its response, or parts of its response, may be exempt from disclosure, the Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the Offeror must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s). Offeror must provide this information on the “Acknowledgment and Acceptance of Region 4 ESC’s Open Records Policy” (Appendix C, Doc #1). Any unmarked information will be considered public information and released, if requested under the Public Information Act. Price is not confidential and will not be withheld.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 4 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. Region 4 ESC must comply with the opinions of the OAG. Region 4 ESC assumes no responsibility for asserting legal arguments on behalf of any Offeror or Contractor. Offeror is advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information. After completion of award, these documents will be available for public inspection.

3. Disclosures: By signing the Offer and Contract Signature Form, Offeror affirms:
 - a) Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this proposal and any subsequent Contract.

Offerors must include a complete description of any and all relationships that might be

documentation required to evaluate whether or not their proposed goods, materials or equipment are substantially equivalent to the Design Guides.

4. Quality of Materials or Services: Offeror shall state the brand name and number of the materials being provided. If none is indicated, it is understood that the Offeror is proposing the exact brand name and number specified or mentioned in the solicitation. However, unless specifically stated otherwise, comparable substitutions will be permitted in cases where the material is equal to that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended.

Product Brand: LithTec™/ LithTec4Roads™ (Dry Powdered Formulations)

Each project is a customized formulation based on laboratory test results, designed to optimize the performance in the sampled material.

LithTec™/ LithTec4Roads™ Powdered Formulations are supplied in 3300 lb. Supersacks, 4,000 lb. Supersacks or in 21-ton pneumatic tankers.

Geotechnical Sampling: Involves the collecting of soil and road base materials and measuring identified road sections, GPS mapping of samples collected, documenting the road history, problem areas and unique characteristics and collecting approximately 5 buckets of material from each cross section of the road as needed. The number of cross sections required for testing is unique to each road, based upon the length, elevation changes and changes to the road base material that is to be tested.

Geotechnical Lab Services: Upon receipt of road base materials, the lab will process the material and begin a battery of 8 tests in compliance with AASHTO and ASTM protocols and testing standards. The customer will receive a Geotechnical Report showing the tests results for each of the 8 tests. The report will indicate the industry standards or performance spec required for each test and the actual tests results achieved after being treated with LithTec™.

Please allow 3 to 6 weeks to complete all testing after the sample material have arrived in the lab, as some of the testing require 21 day cure times

5. Samples: Upon request, samples shall be furnished, free of cost, within seven (7) days after receiving notice of such request. By submitting the proposal Offeror certifies that all materials conform to all applicable requirements of this solicitation and of those required by law. Offeror agrees to bear the costs for laboratory testing, if results show the sample does not comply with solicitation requirements. Submissions may no longer be considered for failing to submit samples as requested.

Compacted cylinders of soil samples referred to as "pucks" are provided to the customer at the completion of testing the customer's sampled material. The customer will receive two pucks, one that is made from the project material that is "untreated or as is" and a second puck that is treated with the customized LithTec™ formulated for that material. The two samples demonstrate the road "before LithTec™ treatment and after". Customer can place the two samples in a bucket of water and observe for themselves how their road will respond to water, before and after treatment. Should customer require a sample puck within 7 days of their request, a generic sample will be provided however it will not be a sample from the customer's material, as that will require 3 to 6 weeks to complete the testing after the material arrives in the lab. All samples provided to the customer shall be subject to the applicable non-disclosure agreement and will protect offerors trade secrets.

6. Formation of Contract: A response to this solicitation is an offer to contract with Region 4 ESC based upon the terms, conditions, scope of work, and specifications contained in this request. A solicitation does not become a Contract until it is awarded by Region 4 ESC. A Contract is formed when Region 4 ESC's board signs the Offer and Contract Signature Form. The signed Offer and Contract Signature Form provided with the RFP response eliminates the need for a formal signing process.
7. Multiple Awards: Region 4 ESC reserves the right to award Contract(s) to multiple Offerors. The decision to award multiple Contracts, award only one Contract, or to make no awards rests solely with Region 4 ESC.
8. Non-Exclusive: Any Contract resulting from this solicitation shall be awarded with the understanding and agreement it is for the sole convenience and benefit of Region 4 ESC. Region 4 ESC reserves the right to obtain like goods and services from other sources.
9. Protest Procedure: Any protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm Central Time. No protest shall lie for a claim that the selected Offeror is not a responsible Offeror. Protests shall be filed with Robert Zingelmann, Chief Financial Officer, Finance and Operations Services, and sent to the Region 4 ESC office at: 7145 West Tidwell Road, Houston, TX 77092. Protests shall include the following:
 - a) Name, address and telephone number of protester;
 - b) Original signature of protester or its representative;
 - c) Identification of the solicitation by RFP number;
 - d) Detailed statement of legal and factual grounds including copies of relevant documents; and
 - e) the form of relief requested.

Any protest review and action shall be considered final with no further formalities being considered.

II. EVALUATION PROCESS AND CRITERIA

1. A committee will review and evaluate all responses and make a recommendation for award of Contract(s). The recommendation for Contract awards will be based on the predetermined criteria factors outlined in this section, where each factor is assigned a point value based on its importance. In evaluating the responses, the following predetermined criteria is considered:

- a) Products/Pricing (40 Points)
- b) Performance Capability (30 Points)
- c) Qualification and Experience (20 Points)
- d) Value Add (10 Points)

RECEIPT OF ADDENDUM NO. 1 ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Lithified Technologies US, LLC

Contact Person Bob Sherwin

Signature 

Date February 18, 2022

Crystal Wallace
Region 4 Education Service Center Business
Operations Specialist